

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20635 of 2004

Between:

M/s Venus Industrial Products, Plot No.C-8, Indl.Estate, Suryapet,

Nalgonda District rep.by one its Managing Partner Smt.S.Ahalya Devi,

W/o S.Narasimhachary, H.No.3-14-21/C, Srinivasapur, Ramanthapur, Hyderabad

..... PETITIONER

AND

1 The Branch Manager, State Bank of India, Suryapeta,
Nalgonda District.

2 The State Bank of India, Head Office, Bank Street, Koti, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus or any other appropriate Writ, declaring the action of the 1st respondent herein in not considering the Petitioner's objections dated 30-09-2004 & 29-10-2004 in terms of the procedure contemplated under Section 13(2) of Securitization and Reconstruction of Financial Assets and enforcement of Security interest Act 54 of 2002, as illegal, arbitrary and contrary to section 13(2) of Securitization and Reconstruction of Financial Assets and enforcement of Security Interest Act 54 of 2002, and consequently direct the 1st respondent to consider the petitioner's objections dated 30-09-2004 & 29-10-2004 in terms of the procedure contemplated

under section 13(2) of Securitization and Reconstruction of Financial Assets and enforcement of Security Interest Act 54 of 2002

Counsel for the Petitioner:MR.K.GANI REDDY

Counsel for the Respondents : Ch.Lakshmi Kumari , S.C. for S.B.I.

The Court, at the stage of admission, made the following :

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ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondents. At their request, the writ petition itself is taken up for final disposal.

As per the decision of the Apex Court in ***Mardia Chemicals Limited V. Union of India and others***, it is incumbent upon the secured creditor to serve 60 days notice before proceeding to take any of the measures. After service of notice, if the borrower raises any objection or places facts for consideration of the secured creditor, such reply to the notice must be considered with due application of mind, and the reasons for not accepting the objections, howsoever brief they may be, must be communicated to the borrower for enabling him to avail the remedy of appeal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act").

In view of the law laid down by the Apex Court, the respondents are directed to consider the objections raised by the petitioner before taking the measures under Sub-section 4 of Section 13 of the Act and communicate the same to the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

09-11-2004

To

- 1 The Branch Manager, State Bank of India, Suryapeta,
Nalgonda District
- 2 The State Bank of India, Head Office, Bank Street, Koti, Hyderabad.

3 2 CD copies.

